



PCB ban 530

ing stand- 538

coup 531

ation 537

tions 541

distribution 527

test 539

exemption 528

chemical 534

oil spills, 535

lam 531

rules 538

x to be 529

results 538

536

536

536

536

536

536

536

536

536

536

536

536

536

536

536

536

536

536

536

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Asbestos

EPA GRANTS EDF PETITION TO BEGIN RULEMAKING ON ASBESTOS IN SCHOOLS

Environmental Protection Agency Deputy Administrator Barbara Blum July 6 signed a notice granting an Environmental Defense Fund (EDF) request that the agency begin rulemaking proceedings to control the hazard from asbestos-containing materials in school buildings.

The agency had earlier denied the EDF petition (Current Report, March 23, p. 2373). EDF responded by filing suit May 18 in the U.S. District Court for the District of Columbia, asking the court to find that EPA's denial of the petition was "arbitrary, capricious, and an abuse of discretion" (May 25, p. 263).

The July 6 notice says EPA has reconsidered its decision and decided to grant the petition for two reasons:

First, EPA has now completed most of the work on its voluntary program to control asbestos hazards in schools. Now that the nonregulatory guidance program is in operation, the notice says, the agency can divert resources to the rulemaking proceeding.

Second, EPA was previously concerned about whether it would be able to establish criteria for determining whether asbestos fibers are being released and what corrective action should be taken.

As a result of further study, the notice says, EPA now has some basis "for confidence in its ability to establish criteria for regulatory purposes."

"The initiation of this rulemaking proceeding does not mean that EPA will abandon its efforts in the technical guidance and assistance program," according to the notice.

EPA has begun work on a formal advance notice of proposed rulemaking and will publish the notice as soon as possible, "in any event no later than August 31," the notice says.

Although the agency is granting the petition, the notice says, "the agency has not prejudged the ultimate form the regulatory program should take."

It says, "The rules the agency will propose under the Toxic Substances Control Act to regulate asbestos in schools may or may not include the specific regulatory approaches suggested by EDF."

Polychlorinated Biphenyls

ABOUT 240 FIRMS, GROUPS SEEK PROCESSING, DISTRIBUTION EXEMPTIONS

About 240 companies and trade associations are asking for one-year exemptions from the Environmental Protection Agency's ban on processing and distributing polychlorinated biphenyls (PCBs).

In addition, 17 firms filed confidential exemption requests, an EPA staff member said.

Among those filing exemption petitions were representatives of industries involved in rail transportation, office equipment, dyes and pigments, inks, lighting fixtures, and electronics.

July 2 was the final date for filing exemption petitions. EPA staff members said they had expected between 600 and 1,800 exemption requests and were surprised when only 240 had arrived before the cutoff date.

Almost all of the requests are for one-year exemptions from the EPA ban on use of equipment containing more than 50 parts per million of PCBs.

Several, however, asked EPA for permission to distribute equipment containing PCBs. The equipment either was made before the ban took effect or was the subject of sales contracts executed before the ban, the petitions said.

Several other firms said they are not making PCBs intentionally but get PCBs as impurities or by-products when manufacturing other products. Silicones were one example of this, the petitions said.

EPA promulgated its final ban on the manufacture, processing, distribution in commerce, and use of PCBs May 31 (Current Report, June 1, p. 289). At the same time, EPA issued procedural rules for filing an exemption request on the processing and distribution ban.

Procedural rules for filing for manufacturing exemptions were issued last fall (November 3, 1978, p. 1378). EPA held hearings on petitions for manufacturing exemptions July 9, 10, and 11 (See related story, p. 528.).

Class Petitions Filed

The Electrical Appliance Service Association (EASA), the National Association of Printing Ink Manufacturers (NAPIM), and the Air Conditioning and Refrigeration Institute (ACRI) filed class petitions on behalf of their members.

Both ACRI and EASA asked for exemptions to distribute in commerce small capacitors containing PCBs. The capacitors would be used in new equipment and as replacement parts in existing units.

Herbert Gilkey, deputy director of public affairs for ACRI, said members need to use the small capacitors in commercial and industrial air conditioning units.

A maximum of three pounds of PCBs are used in each capacitor, Gilkey told Chemical Regulation Reporter July 12. Each air conditioning unit contains one or more small capacitors, he said.

ACRI filed the exemption request on behalf of its 180 members, all of them manufacturers of large air conditioning and refrigeration equipment, Gilkey said.

Earlier, the National Paint and Coating Association (NPCA) and the Dry Color Manufacturers Association (DCMA) filed class petitions for processing and distribution exemptions (July 6, p. 495).

Day-Brite Files for 900

The most lengthy class petition was filed by Day-Brite Lighting Company, of Tupelo, Miss. The company is seeking a one-year processing and distribution exemption for itself and its 900 distributors.

According to its petition, Day-Brite has small capacitors and fluorescent light ballasts containing a total of 1,870 pounds of PCBs. The company also has 6,000 completed lighting fixtures containing 900 pounds of PCBs. The fixtures have a market value of \$180,000, the petition said.

The Day-Brite petition said it has not shipped any capacitors or ballasts containing PCBs since January 1, 1979, but would like EPA permission to ship and sell existing stock.

Conrail Exemption Filed

The Consolidated Rail Corporation asked EPA for a one-year exemption to use and service transformers containing PCBs in its various repair facilities.

According to the five-part exemption request, Conrail is responsible for operating freight and commuter lines in New York, Connecticut, and southeastern Pennsylvania. Unless it gets EPA permission to service and replace transformers on the trains involved, it would be unable to keep the trains operating, the petition said.

GE Seeks Exemption

The General Electric Company filed for an exemption to ship "small quantities" of capacitors and fluid containing PCBs from its Hudson Falls, N.Y., facility. According to the petition, GE has contracted with the Soviet Union to supply replacement capacitors and fluid for equipment it sold the Soviet Union earlier. The service contract is the result of the earlier sales contract, the petition said.

Others File

Three major office equipment companies filed for EPA exemptions to use and replace capacitors containing PCBs in business machines. Honeywell, Inc., IBM (International Business Machines), and 3M (Minnesota Mining and Manufacturing Company) filed for the business machine exemptions. 3M also filed an exemption request for PCBs in pigments.

According to EPA staff members, many of the exemption requests involved PCBs which are impurities or by-products of other processes. The pigments industry, for example, said there are PCB contaminants in colorings and paints but that the quantities are variable and small.

EPA Workgroup To Evaluate

After all the petitions have been catalogued, they will be turned over to EPA's workgroup on PCBs, an EPA staff member said. The workgroup will decide whether to grant or deny the exemption petitions, EPA said.

The decisions will be published in the Federal Register, along with the reasons for approval or denial, an EPA staffer said.

Although EPA has no timetable for deciding on the exemption petitions, staff members said reviewing all the petitions probably would take several months. About one-third of them, however, will be decided on a class, rather than individual, basis because they involve similar uses, EPA staff said.

Polychlorinated Biphenyls

NASA SAYS U.S. SPACE PROGRAM DEPENDS ON EPA APPROVAL OF GE EXEMPTION REQUEST

The U.S. space program will be crippled unless the Environmental Protection Agency approves a General Electric Company request for exemption from the agency's ban on manufacturing polychlorinated biphenyls (PCBs), according to National Aeronautics and Space Administration officials.

Myron S. Malkin, director of NASA's Space Shuttle Program, testified in support of the GE exemption request at EPA manufacturing exemption hearings held June 8-11.

Malkin said the space program depends on the use of the space shuttle which, beginning in 1981, will replace all of the current fleet of expendable launch vehicles.

The space shuttle, in turn, depends upon the use of a variety of room temperature vulcanized (RTV) adhesives produced by GE.

The RTV adhesives are based on phenylchlorosilanes, which are produced by a chemical process that creates PCBs as an unintentional by-product. GE has requested an exemption from the ban to continue manufacture of phenylchlorosilanes.

EPA May 31 announced that it would withhold a decision on the exemption "due to the technical complexity of the activities for which the exemptions are sought" (Current Report, June 1, p. 334).

Malkin said the RTV adhesives are used to bond over 30,000 lightweight ceramic insulating tiles to the surface of the shuttle to protect it from the 2400-degree heat of reentry.

He said the loss of just one tile could result in the destruction of the shuttlecraft.

The adhesive which bonds the tiles to the shuttle must be able to withstand the heat of reentry and the extreme cold of outer space, Malkin said.

He said NASA has been unable to find any substitute for the GE adhesive, which bonds at room temperature, remains elastic down to minus 170 degrees, and retains its strength at 500 degrees.

Malkin said that the shuttle program has been delayed by the extreme complexity of the tile installation process but that the delay was not caused by any problem with the GE adhesives.

"RTV is not our problem. My request is: please don't make it our problem," Malkin said.

RTV adhesives are also used in leveling the shuttlecraft skin before installing the tiles, in critical parts of the shuttle construction, and in the ablative heat shield that protects the shuttle's external fuel tanks, according to Malkin.

Navy Supports GE Exemption

Representatives of the Naval Air Systems Command also supported the GE exemption request.

Charles F. Bersch told the EPA hearing panel that the Navy's basic training aircraft, the A-4, uses a PCB-contaminated hydraulic fluid manufactured by GE.

He said the fluid, Versalube F-50, is used in the constant-speed drive which powers the aircraft's electrical generating system.

The Navy has not been able to find any substitute fluid that will work in the A-4 constant-speed drive, Bersch said.

He said the only alternative to continued use of the GE product would be to ground the Navy's approximately 830 A-4s for several years, while searching for an alternative fluid or replacing all the constant-speed drive units.

The NASA and Navy testimony appear to support GE's claim that "there are no substitute materials that exhibit the combination of high performance properties required for many highly demanding applications."

The phenylchlorosilanes are used to produce a wide variety of silicone products. In addition to adhesives and hydraulic fluids, they are used in making silicone rubber compounds, greases, resins, and sealants.

According to GE, the concentration of PCBs in the phenylchlorosilane products is less than the legal limit of 50 parts per million (ppm). GE says the PCB impurities are contained in a "substantially closed and carefully monitored process system" and destroyed by on-site incineration.

Alcoa Petition

Representatives of the Alcoa Company also spoke at the hearings in support of a manufacturing exemption petition.

Alcoa's petition concerns a new, energy-saving process for aluminum which is now in use at an Alcoa plant in Anderson County, Tex.

Clay Cook, manager of the Anderson County plant, told the panel that the new Alcoa smelting process is the "first ma-

for breakthrough in aluminum smelting technology in 100 years." He said the success of the new process, which is energy efficient and environmentally beneficial, is vital to the country.

The new process provides about a 20 percent reduction in overall energy consumption, according to Cook.

In the Alcoa process, number six fuel oil is reacted to deposit carbon on alumina. The alumina is then chlorinated, producing aluminum chloride contaminated with an average 61 ppm of PCB, according to Cook.

Most of the aluminum chloride is used to produce aluminum in an electrolytic process in which the PCB contaminant drops out as waste and is disposed of, Cook said.

However, about 6 million pounds per year of aluminum chloride is sold to customers for various commercial uses. Cook said the cost to Alcoa of a ban on sale of the aluminum chloride would be about \$2 million per year.

He said Alcoa is developing a one-step process that would not involve the production of a PCB contaminant but that it would be at least three and a half years before the company can make a decision on commercial feasibility of the new process.

Cook said the Anderson County plant produces about 400,000 pounds of contaminated waste per year, containing about 3 percent PCB. He said Alcoa is trying to develop a catalytic method of on-site PCB disposal and has a good chance of doing so.

Joe Damiano, an Alcoa health specialist, told the panel the PCB contaminant involved in the Alcoa process is decachlorobiphenyl. He suggested that it is less hazardous than the less chlorinated biphenyls because it has a lower vapor pressure and is less metabolized in the body.

Cook said Alcoa is continuing efforts to modify its production process to reduce the contamination level in the aluminum chloride below 50 ppm.

EPA Exemption Criteria

EPA Deputy Assistant Administrator for Chemical Control John DeKany said at the hearings that the exemption decisions will be based on two major criteria:

- Whether or not the manufacturing activity presents an unreasonable risk to human health or the environment, and
- Whether or not the manufacturer made good faith efforts to develop a substitute process.

Late Exemption Requests

John Lyon, of EPA's Office of General Counsel, said the agency has recently received a number of late manufacturing exemption requests. They include requests from American Cyanamid Company and Apollo Colors Inc. to manufacture pigments; from E. I. du Pont de Nemours and Company to manufacture a water soluble dye; from Bolland Corporation to produce an intermediate used in the manufacture of the fungicide pentachloronitrobenzene; and from Analabs Inc. and RFR Corporation to produce small quantities of PCBs for research purposes.

Lyon said EPA has decided to accept the late petitions on the same basis as previous manufacturing exemption requests. The decision means the manufacturers can continue production until EPA makes a decision on their exemption requests.

Lyon told Chemical Regulation Reporter July 12 that future petitions would be considered on a case-by-case basis. He said manufacturers who have not yet filed exemption requests should do so if they feel they have a good case for being granted an exemption.

Lyon said the deadline for comment on the exemption requests has been extended to August 1 because of the late requests.

2.4.5-T

BAN ON ALL REMAINING USES OF 2.4,5-T, SILVEX TO BE CONSIDERED AT HEARINGS

The 2.4,5-T/Silvex cancellation hearings will be expanded to consider cancellation of all remaining uses of the herbicides as a result of a notice signed July 9 by Environmental Protection Agency Assistant Administrator for Toxic Substances Steven D. Jellinek.

In announcing the agency's proposal to include the remaining uses in the hearings, EPA Deputy Administrator Barbara Blum said, "EPA has preliminarily concluded that the risks posed by remaining uses of the herbicides outweigh the known benefits."

However, Blum said, "Our information on exposure and benefits is insufficient to determine whether or not to cancel the remaining uses."

The notice says the herbicides exceed EPA risk criteria for oncogenicity, teratogenicity, and fetotoxicity.

Economic Impact

According to the notice, the economic impact of canceling the remaining uses of Silvex would be small. The remaining Silvex uses are:

- On rangeland. The notice says there are no comparably effective alternatives to Silvex but the economic impact of cancellation would be negligible, since the treated area amounts to less than 0.2 percent of U.S. rangeland.

- On rice. The action would have negligible economic impact, according to the notice, because Silvex is used on only 2,000 acres of riceland each year, less than 0.1 percent of the total.

- On sugar cane. Cancellation would result in a maximum loss of 2 percent of U.S. production with negligible impact on consumer prices, the notice says. Loss to producers would be \$4 million in Florida and \$6.3 million in Louisiana, according to the agency.

- On orchards. EPA predicts that cancellation would cause a \$1 million increase in apple production costs and a loss of \$1.8 million in revenue to prune growers, with negligible price impact to consumers.

- For noncrop areas, such as vegetation control around fences, buildings, parking lots, hedges. There would be little economic impact, the agency says, because many effective alternative herbicides are available.

The impact of 2.4,5-T cancellation may be more substantial, according to EPA. The agency predicts that cancellation of the rangeland use, which involves about 1.5 million acres per year, would have a user impact of \$10 million to \$20 million per year, increasing the consumer food price index by up to 0.046 percent.

Cancellation of the rice use of 2.4,5-T, which is applied to about 300,000 acres, might have a user impact of several million dollars per year, but the national impact would be minor, EPA says. Losses from cancellation would represent less than 0.1 percent of U.S. rice production, according to the agency.

Because of the availability of alternatives, the agency says, cancellation of noncrop uses of 2.4,5-T would have little economic impact.

Hearings Delayed

The EPA hearings to consider EPA's February 28 decision to ban major uses of the two herbicides have been delayed in anticipation of the agency decision on the remaining registered uses (Current Report, June 8, p. 347).

The proposed hearings on the remaining uses cannot be included in the ongoing hearings until EPA publishes a final notice and gives the public the opportunity to comment. This

process is likely to take at least three months, because the agency must first submit its proposed notice to its Scientific Advisory Panel (SAP) and to the Department of Agriculture for comment.

The agency submitted the hearing proposal to the SAP July 11, giving the panel 30 days to respond. However, the panel recently announced that it will not review EPA notices at a panel meeting unless the notice is submitted by EPA at least three weeks beforehand.

Therefore, the panel may not review the hearing notice until its August 15-16 meeting.

Confidentiality Still at Issue

The confidentiality of Dow Chemical Company testing data was the subject of extended discussion at a prehearing held July 11 at EPA headquarters.

The agency is prohibited by a court injunction from making public testing data which Dow claims is trade secret information (April 20, p. 51).

Dow has proposed that participants in the 2,4,5-T cancellation hearings be required to sign a confidentiality agreement to protect Dow testing data used in the hearings. Dow also proposes that the presiding administrative law judge issue a protective order to safeguard Dow's data.

William Butler, of the Environmental Defense Fund (EDF), objected at the prehearing to the severity of the penalties proposed by DOW for breach of the confidentiality agreement.

Dow suggested various penalties, ranging from automatic exclusion from active participation in the hearings to payment of \$50,000 in damages to Dow.

The counsels for Dow, EPA, and EDF tentatively agreed to leave the final decision on the penalty for each breach of confidentiality to be decided by the administrative law judge. Possible penalties may include payment of a civil penalty and exclusion from further access to the Dow confidential data.

Butler also objected to Dow's proposal that Dow would be given access to a list of all consultants who have had access to the confidential data, when a breach of confidentiality is claimed. The parties tentatively agreed to leave the decision on release of the consultant lists to be made by the administrative law judge in the event a breach of confidentiality is demonstrated.

A prehearing which had been scheduled for July 19 has been canceled. Dow counsel Edward Warren suggested at the July 11 prehearing that the hearings should proceed immediately, without waiting for the agency to issue a final notice on cancellation of the remaining uses.

Warren said there is no reason to delay to wait for "hypothetical" new participants who may decide to join the hearings as a result of the proposal to consider cancellation of the remaining uses.

Administrative Law Judge Edward B. Finch decided to proceed with the hearings as if the July 9 notice had not been issued. He said additional prehearings could later be held to involve new participants who may join as a result of the notice.

Finch directed Dow and EPA to file by July 17 lists of witnesses on the risk or use of the herbicides, along with summaries of proposed testimony on risk.

The EPA notice on cancellation of the remaining uses will appear shortly in the Federal Register. A supporting EPA position document is available from Michael Dellarco, Project Manager, Special Pesticides Review Division, (TS-791), Room 722, EPA, 401 M. St., S.W., Washington, D.C. 20460, (703) 557-8244.

Comments on EPA's proposed action should be addressed to the Federal Register Section (TS-791), Room 447, East Tower, EPA, 401 M St., S.W., Washington, D.C. 20460.

Comments will be due no later than 30 days following publication of the notice in the Federal Register.

Litigation

ONE COMPANY, THREE ASSOCIATIONS MOVE TO INTERVENE IN EDF SUIT ON BAN ON PCBs

A mining equipment manufacturer and three associations representing electronics firms and electric utilities are seeking to intervene in a suit challenging the Environmental Protection Agency's ban on polychlorinated biphenyls (PCBs).

The Environmental Defense Fund (EDF) filed the suit against EPA June 7 (Current Report, June 15, p. 420). EDF charged that EPA's ban, promulgated May 31, allows more uses of PCBs than it prohibits. The suit was filed in the U.S. Court of Appeals for the District of Columbia Circuit.

The first motion to intervene was filed jointly by the Ad Hoc Committee on Liquid Dielectrics of the Electronic Industries Association (EIA) and the National Electrical Manufacturers Association (NEMA) on July 8.

Both groups represent manufacturers and users of electric capacitors containing PCBs in the dielectric fluid.

In their motion, NEMA and EIA asked to intervene in support of EPA's regulations on PCBs. The motion said both groups had taken part in the rulemaking procedure and could be "substantially affected by the regulations under review in these proceedings."

EI Motion

The Edison Electric Institute (EII) July 9 filed a similar motion to intervene in the EDF suit. According to the motion, EII filed on behalf of 32 electric utilities which provide 77 percent of the total electricity generated in the United States. The utilities serve about 78 million customers, the motion said.

EII said it wanted to be a full party to the suit because the EDF suit "will challenge the continued servicing of existing equipment containing PCBs." Electric transformers are major PCB users.

Neither EPA nor EDF would adequately represent the interests of the utilities or their investors, the EII motion said.

Joy Files Motion

Joy Manufacturing Company, Pittsburgh, Pa., July 9 filed the third motion to intervene. According to the motion, the company manufactures and services coal mining equipment which uses PCBs as either the dielectric fluid or coolant.

According to the motion, Joy Manufacturing Co. wants to be a full party to the suit against the EPA ban on PCBs. If the court should invalidate EPA's timetable for replacement of PCBs in the mining equipment motors, it would shut down 10 percent of the bituminous coal industry, the motion said.

The final PCB ban says continuous miner motors may be rebuilt with PCBs until January 1, 1980. Loader and miner motors may be serviced with PCBs until January 1, 1982, (June 1, p. 323).

Joy Manufacturing Co. said it has 517 motors in loaders and 72 in continuous miners. Any change in the EPA position would have a severe economic impact on the mining industry, the motion said.

In its suit against EPA, EDF charged that the PCB ban would exempt 99.3 percent of the PCBs now in use. The EDF

suit was filed under the judicial review provisions of Section 19 of the Toxic Substances Control Act.

Enforcement

EPA ISSUES POLICY ON INFORMATION NOT NEEDED FROM PESTICIDE REGISTRANTS

The Environmental Protection Agency July 12 issued a policy statement describing circumstances under which the agency would not take enforcement action against pesticide registrants who fail to report certain pesticide registration information (44 FR 40716).

The Federal Insecticide, Fungicide, and Rodenticide Act requires registrants to provide EPA with information on the risks and benefits of their registered pesticide products.

The policy statement is intended to fulfill the requirements of a memorandum issued last year defining reporting requirements for pesticide registrants (Current Report, August 25, 1978, p. 943).

The memorandum said it would be "appropriate" for the agency to announce what information is not essential to the agency's functions and not needed from the registrants.

EPA said the provisions of the notice, which is published in the Full Text section of this report, are based on assumptions about what resources EPA will have available to review information submitted to the agency.

Comments on the policy should be sent by October 10 to John J. Neylan III, EPA Office of Enforcement, Room 3632, 401 M St., S.W., Washington, D.C. 20460. Requests for additional information may be sent to the same address.

Enforcement

EPA APPROVES PROPOSAL FOR LABELING, NOTIFICATION FOR EXPORTED PESTICIDES

A proposed policy statement describing procedures for carrying out the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) with respect to exported pesticides, devices, and active ingredients was signed July 11 by Environmental Protection Agency Assistant Administrator for Enforcement Marvin Durning.

Amendments to FIFRA adopted last year require pesticides destined for export to have certain labels. The amendments also require the importer of a product which is not registered in the U.S. to sign an acknowledgement that he knows the product cannot be sold in the U.S.

The policy, which will be published in the Federal Register shortly, defines the labeling requirements and the procedures that pesticide exporters must follow in order not to violate the provisions of FIFRA.

According to the proposed procedures, which are published in the Full Text section of this report, exported pesticides, devices, and active ingredients must bear a label with information on ingredients, the name of the manufacturer or registrant of the product, a warning of toxicity, and a statement if the product is not registered for use in the U.S.

The labels must be written in English or the language of the importing country, the proposal says.

The proposed procedures say an exporter must have in hand a statement that a foreign purchaser has signed an acknowledgment before an unregistered pesticide can be exported.

EPA, with the help of the State Department, will transmit the acknowledgment to appropriate officials in the receiving country in order to inform the foreign government that an unregistered or cancelled pesticide is entering its country.

Solid Waste

EPA FINDS 60 MORE HAZARDOUS WASTE SITES, CREATES WASTE EMERGENCY RESPONSE SYSTEM

The Environmental Protection Agency July 11 released the names of 60 newly discovered sites containing hazardous wastes "which may be public health and environmental hazards."

In addition, the agency announced it has established a new agency-wide hazardous waste enforcement and emergency response system to respond to hazardous waste emergencies.

EPA, which is keeping a status report on the number of known hazardous waste sites, said it is now aware of 151 sites in the U.S. which may contain potentially dangerous quantities of hazardous wastes.

EPA Deputy Administrator Barbara Blum July 11 said, "We will continue to evaluate the extent of the hazards at these sites and force responsible parties to alleviate any immediate threat to the public."

The evaluations may result in legal actions or emergency federal actions to contain the spread of contaminants where there is an imminent hazard and where existing local authority and funding is insufficient, according to the agency.

EPA said federal legal action is pending against five sites and states are acting against 34 sites.

In April, the agency released a status report on 135 sites known to contain hazardous wastes (Current Report, May 4, p. 115). The new 151-site figure reflects the removal of 45 sites from active investigation, which were cleaned up or are no longer imminent hazards, and the addition of 60 new sites recently discovered.

New Enforcement Group

To carry out the new system, EPA created a national hazardous waste enforcement task force and a new unit in the Oil and Special Materials Control Division. The enforcement task force, which must report directly to Blum, will coordinate federal clean-up activities with EPA regional offices and states.

Currently, EPA has about 100 people, primarily in its regional offices, working on hazardous waste site investigations and enforcement.

Pesticides

CONCERN OVER EMERGENCY EXEMPTIONS RAISED BY STATE FIFRA ISSUES GROUP

The ability of states to get emergency exemptions to use pesticides emerged as the main concern of the members of the Environmental Protection Agency's State FIFRA Issues Research and Evaluation Group (SFIREG) during its July 11 meeting.

Douglas D. Campt, director of EPA's Pesticide Registration Division, told the meeting the number of requests for exemptions submitted under Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) doubled in the last year. Many of these requests were for "borderline" emergencies, were repetitive, or were undocumented, he said.

Carcinogens**INTERAGENCY GROUP, MINUS OSHA, SEEKS COMMENT ON RISK ASSESSMENT DOCUMENT**

The Interagency Regulatory Liaison Group (IRLG) is seeking public comment on the "validity and appropriateness" of methods for identifying and evaluating carcinogens described in its risk assessment document.

With the exception of the Occupational Safety and Health Administration, the IRLG agencies are jointly requesting comment on its paper, "Scientific Bases for Identification of Potential Carcinogens and Estimation of Risks," published in the July 6 Federal Register (44 FR 39858).

The IRLG document, which describes both a basis for making qualitative evaluations of a substance's carcinogenicity and methods for making quantitative estimates of carcinogenic risk, is "intended to serve as a valuable scientific reference which may be considered by the agencies, consistent with their statutes," according to the IRLG notice.

The IRLG agencies, which include, in addition to OSHA, the Consumer Product Safety Commission, the Environmental Protection Agency, and the Food and Drug Administration, first presented the risk assessment paper in February (Current Report, February 9, p. 2039). Since then, the Food Safety and Quality Service of the Department of Agriculture, joined the IRLG, and scientists from that agency "have reviewed the report and concur," according to IRLG.

Senior scientists from the National Cancer Institute and National Institute for Environmental Health Sciences also assisted in preparation of the report, which has been accepted for publication in the *Journal of the National Cancer Institute*.

The report has no "regulatory status" other than as an appraisal of the scientific principles applicable to carcinogens identification and evaluation, according to IRLG's notice, nor is the report intended to give regulatory agencies the "force of law" in making findings precedent to regulatory action. IRLG reported that it is not seeking comment related to the regulatory status of the report.

According to the notice, OSHA is not participating in the comment gathering process "because OSHA already has conducted an extensive public proceeding, including a public hearing" on its own proposal for identifying and regulating carcinogens in the workplace (May 19, 1978, p. 267).

Comments on the content of the report should be submitted by September 30 to IRLG, Room 500, 1111 18th St., N.W., Washington, D.C. 20207.

The report is published in the Full Text section of this Current Report.

Chlorobenzilate**EPA RESPONDS TO CITRUS GROWERS, ENVIRONMENTAL DEFENSE FUND APPEALS**

The Environmental Protection Agency's Office of General Counsel July 9 filed a response opposing the Environmental Defense Fund (EDF) appeal of a decision barring the group from participation in hearings on chlorobenzilate.

EDF June 12 appealed the decision of EPA's Chief Administrative Law Judge Herbert L. Perlman prohibiting EDF from participation in hearings to review the agency's cancellation of non-citrus uses of the pesticide (Current Report, June 22, p. 451).

Perlman cited a ruling by EPA Acting Judicial Officer Ronald L. McCallum that such hearings cannot consider restrictions beyond those announced by the agency (April 13, p. 27).

The Office of General Counsel, in its response to the EDF appeal, said the Federal Insecticide, Fungicide, and Rodenticide Act allows "persons adversely affected" by an EPA cancellation order to request a hearing.

The Office of General Counsel said the language and legislative history of the Act clearly show that "persons adversely affected" can intervene only to stop the proposed cancellation, not to force a more restrictive action as proposed by EDF.

According to the EPA office, the language in the Act extending hearing rights to "persons adversely affected" was created at the request of pesticide user groups "to protect the rights of users of established pesticides."

Those who believe that an EPA cancellation order does not go far enough have the right under FIFRA to petition the agency directly or to seek relief in the courts, the Office of General Counsel said.

Ciba-Geigy Corporation and the Department of Agriculture June 21 also filed briefs opposing the EDF appeal.

Citrus Growers' Appeal

Perlman also disqualified three citrus growers associations from participation in the chlorobenzilate hearings on the grounds that they had not filed hearing requests within the statutory 30 days allowed.

Florida Citrus Mutual was the only association to appeal the disqualification. The association argued that FIFRA provides 30 days for hearing requests following publication of the cancellation notice or notification of the pesticide registrants, whichever occurs later.

Florida Citrus Mutual said its hearing request was filed within 30 days after the last registrant had been notified.

The Office of General Counsel June 35 filed a response opposing the growers' appeal. It argued that there are separate 30-day filing periods for the public and for individual registrants. Florida Citrus Mutual, which is not a chlorobenzilate registrant, was required to respond within 30 days of the time the cancellation notice was published in the Federal Register, OGC said.

The decision on the two appeals would ordinarily be made by McCallum, acting for EPA Administrator Douglas M. Costle. However, EDF in its appeal requested the opportunity to present oral argument directly to Costle because of the importance of the case.

McCallum said July 11 that no decision had been made as to whether Costle will hear the appeal directly.

Health Hazards**TURTLES SHOW CHEMICALS ARE WIDESPREAD. NEW YORK ENVIRONMENTAL PATHOLOGIST SAYS**

A study of snapping turtles shows that polychlorinated biphenyls (PCBs) and pesticides have spread to contaminate even pristine areas, according to a New York environmental pathologist.

Ward B. Stone, a wildlife pathologist with the New York Department of Environmental Conservation, recently completed a study for the state of about 60 snapping turtles captured in various areas of New York.

The turtles contained large amounts of PCBs, dieldrin, and, dichlorodiphenyldichloroethylene (DDE), Stone told

Chemical Regulation Reporter July 10. DDE is the degradation product of dichlorodiphenyltrichloroethane (DDT).

According to Stone, all 60 turtles contained PCBs. Turtles captured in the Hudson River area of the state had mean PCB levels of 2,990 parts per million (ppm), he said. Turtles from rural farm ponds and "pristine" areas had a mean PCB contamination rate of 464 ppm, Stone said.

In addition, the rural turtles contained a mean level of 11.5 ppm of DDE and 4.24 ppm of dieldrin. The Hudson River turtles had 11.1 ppm of DDE and 8.45 ppm of dieldrin, Stone said.

New York Issues Warning

Immediately after Stone made the findings public, New York issued a warning that people, particularly pregnant women, nursing women, and young children, should not eat turtles.

New York health officials also cautioned that anyone that eats turtles should remove all viable fat before cooking. PCBs are found in the highest concentrations in fat tissues, they said.

Turtles Unfit to Eat

According to Stone, the turtles are "unfit for human consumption" and show that "the whole earth is contaminated [with PCBs] to some degree."

Because many people eat snapping turtles, barbecued or in soup, Stone made several batches of soup from the turtles. He found that a 250-milliliter bowl of snapper soup contained an average of 230 ppm of PCBs if the turtle was from the Hudson River area.

Soup made from turtles taken from areas other than the Hudson River contained various amounts of PCBs, from a low of 0.91 ppm for a turtle caught in an isolated creek to levels approaching those found in soup made from Hudson River turtles, Stone said.

Not Covered By Tolerances

The Food and Drug Administration June 26 approved new tolerances for food contaminated with PCBs. Although FDA lowered the tolerance for PCBs in fish and shellfish from five ppm to two ppm, the new tolerance does not apply to turtles (Current Report, June 29, p. 471).

Betty Campbell, in the compliance division of FDA's Bureau of Foods, said no one at FDA considered turtles when lowering the PCB tolerance for fish and shellfish.

"This is the first the agency has heard of it," Campbell told Chemical Regulation Reporter July 12. "I guess we would need to look at" the study.

Role as Monitors

Stone said he chose turtles for studying the spread of PCBs because the amphibians are long-lived, stay within a one-mile radius of their birthplace, have large fat deposits, and have an omnivorous diet.

They are very much like humans, Stone said, adding that the turtles' living and feeding characteristics make them "very good monitors of the environment."

According to Stone, many animals have special diets or migrate from one area to another, making them poor monitors when extrapolating test results to humans. Those characteristics also make it difficult to tell where the contamination was picked up, Stone said.

Turtles, however, are excellent monitors and are widely distributed, he said.

Stone began studying turtles in 1976 and still is collecting and analyzing more samples. All of the samples have born out his conclusion that PCBs "are everywhere," he said.

He said he was especially concerned because the pollution of their habitat apparently has not reduced the turtle population. They therefore are accumulating large quantities of contaminants which, in turn, are consumed by those eating the turtles, Stone said.

The New York department of health warned residents in late June that eating snapping turtles captured in the state is

Stone, however, said many turtles captured in New York are exported to other sites where they are made into soup and other specialty foods. He said he feels the FDA tolerances for PCBs should be expanded to include turtles, snakes, and other reptiles and amphibians eaten by humans.

Stone, who has been concerned about PCB contamination since 1969, said the new FDA tolerances for PCBs are causing "quite a tizzy right now" in New York.

The tolerances, which take effect August 28, are expected to hurt commercial fishing on the Hudson River. Especially affected will be shad and striped bass which come into the river to spawn, Stone said.

"There is a lot of economic impact" to the new PCB tolerance of two ppm, Stone said. The sport fishing industry and state fisheries biologists are concerned that fishing licenses sales and tourism will be greatly harmed by the new tolerances, Stone said.

Copies of the paper, titled "Toxicants in Snapping Turtles," are available by writing Ward B. Stone, Wildlife Pathologist, Delmar Wildlife Resources Center, Delmar, N.Y. 12054.

Hudson: Hot Spot

The Hudson River contains about 1.3 million pounds of PCBs, according to the 1978 "Hudson River PCB Study" done by the New York Department of Environmental Conservation.

About 20 turtles analyzed as part of that study showed PCB concentrations of 712 ppm, the study says.

Reporting

DATA COMMITTEE URGES UNIFORM USE OF CHEMICAL ABSTRACTS SERVICE NUMBERS

General Government-wide use of Chemical Abstracts Service (CAS) Registry numbers for identifying chemical substances was proposed at a meeting of the Interagency Toxic Substances Data Committee July 10.

Committee members were asked to seek approval of their individual agencies of a memorandum of understanding that any data systems requiring the identification of chemical substances would use the CAS Registry number as a means of common, uniform identity control.

George Cushman, Materials Transportation Bureau, Department of Transportation, told the committee that functional needs of his agency would be best met by using the United Nations hazardous materials identification numbering system as proposed by MTB June 7 (Current Report, June 8, p. 345). This numbering system is a classification of hazards rather than chemical identity. Cushman said he will relay the data committee's proposal on the use of CAS numbers to MTB.

Subcommittee reports on the Chemical Substance Information Network (CSIN) and on toxicology information were presented by Henry Kiasman of the National Library of Medicine. He said a review is being made and a report will be prepared evaluating 15 existing data bases that may be suitable for inclusion in CSIN.

person into the workplace. The citation carried a \$250 proposed fine.

Amvac is challenging both citations and says DOSH's monitoring methods were improper and that it obtained evidence unlawfully.

Polychlorinated Biphenyls

EPA SEEKS COMMENTS ON DECISION TO TEST PROPOSED PCB DISPOSAL METHOD

RALEIGHT, N.C. — (By a Chemical Regulation Reporter staff correspondent) — The Environmental Protection Agency July 5 requested comments on the agency's decision to test a proposed method for destroying liquid polychlorinated biphenyls (PCBs).

The pyrolytic technique will be tested October 15 at Resource Recovery Corporation's Raleigh facility.

Resource Recovery Corp. asked EPA in January to allow it to destroy liquid PCBs through pyrolysis. Pyrolysis is a process which causes the decomposition of organic matter by subjecting it to high temperature in the absence of oxygen (Current Report, May 4, p. 122).

In pyrolysis, a large plasma arc torch powered by electricity subjects the contaminated material to temperatures that could be as high as 1600 degrees Celsius.

The plasma flame converts the material to a synthetic gas. The gas by-product will be flared in the EPA test, but a company spokesman has said the gas could be stored in a tank, be liquified, or be shipped elsewhere for use.

Must Demonstrate Efficiency

For the test to be successful, Resource Recovery Corp. must demonstrate that pyrolysis destroys PCBs as efficiently as incineration, which EPA said is 99.99 percent efficient.

EPA Region IV Administrator John C. White in announcing the decision to permit a test, said EPA will have a basis for approving the alternative technology if the pyrolytic system is judged as efficient as incineration.

In the 12 experiments which are planned, varying concentrations of PCBs will be subjected to heat, varying from 1200 to 900 degrees Celsius.

Comments on EPA's decision to allow the test must be submitted by August 1 to James H. Scarbrough, Residuals Management Branch, EPA, 345 Courtland St., N.E., Atlanta, Ga. 30308.

Hazardous Waste

GOVERNORS' ASSOCIATION ADOPTS PLAN TO GIVE LEAD IN MANAGEMENT TO STATES

The National Governors' Association (NGA) July 10 approved a national hazardous waste management policy urging that states be given the flexibility to respond to their respective waste priorities and be given the lead in the management of hazardous wastes.

The policy, approved by the governors in plenary session at their annual meeting in Louisville, Ky., says that a federal plan on the proper management of hazardous waste is essential but that states must take the lead in managing their hazardous waste problems.

The NGA policy supports a systematic and phased effort to identify, assess, and control abandoned hazardous waste sites, with states taking the lead in managing the sites and with the Federal Government providing financial and technical assistance.

The policy supports funding through a combination of general appropriations and fees generated, as in the recently

proposed superfund, but says the funding should be provided to states not only for emergency remedial action at abandoned sites but also for long-term containment, treatment, and disposal.

Similar criticisms were made at recent congressional hearings on the superfund (Current Report, June 29, p. 469).

Superfund Should Be Retroactive

NGA said, however, that any federal assistance for remediation and control of abandoned sites "must be retroactive to July 1, 1977." NGA said "states must be free to use their own resources to protect the public safety without fear of losing federal assistance while the federal program is under debate." Currently, the superfund being considered by the Administration and Congress would not be retroactive and could not be applied to recently discovered abandoned hazardous waste sites such as Love Canal in Niagara Falls, N.Y., and "Valley of the Drums" in Kentucky.

According to NGA, the major obstacle facing states in carrying out a hazardous waste management and control program is the shortage of environmentally acceptable disposal facilities because of public opposition.

To ease this problem, NGA supported establishment of a trust fund for the perpetual care of closed hazardous waste management facilities permitted under the Resource Conservation and Recovery Act to ensure that financial and technical resources will be available to control and abate any problems that may arise after closure of a facility.

The fund should be based on an equitable assessment of fees on operators of the facilities but the fee should be reduced or eliminated for facilities that reuse or recycle hazardous wastes or destroy the hazardous nature of wastes, according to NGA.

Moreover, NGA urged tax incentives be made available to hazardous waste generators to dispose properly or to recover hazardous wastes. NGA also urged Congress to consult with states in developing the fund and said that states should have a primary role in administration and use of the fund.

With the regulations under RCRA, Congress should also assure that the requirements for financial responsibility of the owners and operators of hazardous waste management facilities can be met, including requirements on insurance, guarantee, surety bond, self-insurance, or other financial methods for a facility, NGA said.

Congress should also amend RCRA to require the owner of each hazardous waste management facility to establish and maintain a fund large enough to ensure acceptable operation, closure, and emergency response, if necessary, for the facility, NGA said.

Siting Barriers Need To Be Identified

Interstate and intergovernmental mechanisms must be explored to identify technical and institutional barriers to the siting of hazardous waste management facilities; to investigate alternatives to the siting problem, including economic incentives to overcome public opposition to siting; and to develop interstate agreements for the handling of hazardous wastes, according to NGA.

NGA recommended that the hazardous waste regulations proposed by the Environmental Protection Agency in December 1978 be revised to define, identify, and grade hazardous wastes based on their degree of risk to human health and the environment and that the applicable storage, treatment, and disposal standards reflect this.

NGA said the Federal Government should increase its research and development program in hazardous waste management. "A modest investment in hazardous waste research could significantly decrease the cost of remedial